

METROPOLITAN DEVELOPMENT COMMISSION
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CITY-COUNTY COUNCIL GENERAL
ORDINANCE NO. G.O. 64, 1992

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Amending: 82-AO-4
84-AO-3

ZONING ORDINANCE 92-AO-6
AMENDING
THE FLOOD CONTROL DISTRICTS ZONING ORDINANCE
OF
MARION COUNTY, INDIANA
A PART OF THE CODE OF INDIANAPOLIS
AND MARION COUNTY, INDIANA
(VOLUME III, APPENDIX D)

ADOPTED:

METROPOLITAN DEVELOPMENT COMMISSION: AUGUST 5, 1992
CITY-COUNTY COUNCIL: AUGUST 24, 1992

Department of Metropolitan Development
Division of Neighborhood and Development Services

FLOOD CONTROL DISTRICT
ZONING ORDINANCE

AN ORDINANCE to amend Marion County Council Ordinance No. 8-1957, as amended, the Zoning Ordinance for Marion County, Indiana, and fixing a time when the same shall take effect.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA, that Marion County Council Ordinance No. 8-1957 adopted by the Marion County Council on March 28, 1957, and subsequently amended, pursuant to Chapter 283 of the Indiana Acts of 1955, and all zoning Ordinances and zoning district maps adopted as amendments thereto, including the Comprehensive Zoning Maps of Marion County, Indiana, adopted by Zoning Ordinance 70-A0-4, as amended, be amended to read as follows:

ESTABLISHMENT OF FLOOD CONTROL ZONING DISTRICTS

Section 1.00 ESTABLISHMENT OF DISTRICTS

- A. The following secondary FLOOD CONTROL DISTRICTS for Marion County, Indiana, are hereby classified, divided and zoned into said districts as designated on the FLOOD CONTROL DISTRICTS ZONING MAPS, which maps are attached hereto, incorporated herein by reference and made a part of this Ordinance:

FLOOD CONTROL ZONING DISTRICTS

ZONING DISTRICT SYMBOLS

FLOODWAY (secondary)

FW

FLOODWAY FRINGE (secondary)

FF

- B. The District boundaries have been established from hydrological data delineated on Flood Boundary and Floodway Maps and Flood Insurance Rate Maps provided by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Indianapolis, Indiana" dated June 3, 1988. Topographic-based floodplain maps which may be developed by the City and approved for use by FEMA may be used as best available data to supplement FEMA's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, in accordance with FEMA and INRC procedures and regulations. These maps contain numbered Zone A floodplain areas for which floodway district boundaries and base flood elevations are provided, Zone AH floodplain areas for which Base Flood Elevations are provided, Zone A0 floodplain areas for which Base Flood Elevations are not provided, and unnumbered Zone A floodplain areas for which floodway district boundaries and base flood elevations are not provided. Each of the aforementioned maps also contain Zone B floodplain areas which depict areas subject to flooding in the headwaters of a stream, the 500 year frequency floodplain collar outside of the 100 year frequency Zone A area, and land

subject to shallow flood depths of less than one foot. The district boundaries and base flood elevations for mapped areas shall be determined as follows:

Numbered Zone A

The Floodway (FW) and Floodway Fringe (FF) Zone District boundary is determined from the Flood Boundary and Floodway Map. The accompanying base flood elevation shall be determined from the Flood Insurance Study Base Flood Profile, using the Flood Insurance Rate Map as a guide, and is rounded up to the nearest one half foot of elevation.

Zone AH and Zone AO

In Zone AH floodplain areas, the Base Flood Elevation shown on the Flood Insurance Rate Map shall be used. In Zone AO areas, the Base Flood Elevation shall be determined using the procedure set forth for unnumbered Zone A areas. For both Zone AH and Zone AO floodplain areas the floodway district and floodway fringe district boundaries shall be determined in accordance with the procedures for unnumbered Zone A floodplain areas.

Unnumbered Zone A

Because this mapped area depicts only the approximate base flood boundary, the Floodway (FW) District boundary, Floodway Fringe (FF) District boundary, and base flood elevation must be established through a site-specific engineering analysis using a method acceptable to DPW or a floodplain recommendation letter issued by INRC containing specific reference to the site in question. It is the responsibility of the applicant applying for a Floodplain Development Permit to provide the requisite engineering analysis to DPW or to obtain a floodplain recommendation letter from INRC.

Zone B

Only those Zone B areas for which the approximate headwater floodplain is depicted are subject to regulation under this Ordinance. Proposed developments in Zone B headwater floodplain areas generally do not require mandatory flood insurance under the NFIP but are still subject to flood hazards and therefore are regulated by this Ordinance. The procedure for establishing the Floodway (FW) District boundary, Floodway Fringe (FF) District boundary, and base flood elevation is the same as that for unnumbered Zone A areas.

- C. Detailed hydrological data may not be available on the aforementioned maps for certain portions of the FLOODWAY and

FLOODWAY FRINGE DISTRICTS. In such cases, an owner of land or applicant for a Floodplain Development Permit shall be required to request a determination of district boundaries and appropriate flood protection grade from the INRC and the appropriate DISTRICT regulations shall apply. In the event INRC lacks sufficient data, DPW shall determine which type of Flood Control District the site is located in and the appropriate flood protection grade and limitations applicable to that District. If DPW lacks sufficient data to make this determination the applicant for the Floodplain Development Permit shall be required to submit a Zoning District boundary determination completed by a registered professional engineer. The procedures by which specific determinations of DISTRICT boundaries are to be made and incorporated into revisions of the Flood Insurance Rate Maps and Flood Boundary and Floodway Maps are set forth in Section 1.01 of this Ordinance.

SECTION 1.01 CHANGES TO DISTRICT BOUNDARIES

Procedures to change the Floodway and Floodway Fringe District boundaries, with or without an accompanying base flood elevation change, may be initiated in certain circumstances, including but not limited to: determination of original mapping error; physical change to the landscape such as filling, excavating or grading; modification of a channel or bridge which changes the hydraulic or hydrologic characteristics of the watercourse; availability of better topographic base mapping which more accurately depicts the floodplain limits; and development of detailed hydrological data for previously unstudied Zone A and Zone B floodplain areas. In addition, an owner or lessee of property who believes his or her property has been wrongly designated in a particular Flood Control Zoning District may apply for a District boundary change in accordance with this Section.

Changes to the Floodway (FW) District boundary, Floodway Fringe (FF) District boundary, and the accompanying base flood elevations must be approved by FEMA through a Letter of Map Revision (LOMR) or Letter of Map Amendment (LOMA) in accordance with procedures established by FEMA, before the revised maps and data shall be used under this Ordinance. Detailed study data, developed for sites located in unnumbered Zone A and Zone B areas pursuant to Section 1.00 as best available data, will generally not be acknowledged by FEMA for flood insurance determinations or result in District boundary revisions unless an official LOMR or LOMA is issued by FEMA which specifies such changes.

DPW shall review all LOMR and LOMA applications for completeness pursuant to FEMA regulations and procedures and verify that the subject project has satisfied the regulatory requirements of this Ordinance. Upon verification DPW shall issue a signed Community Acknowledgment to the applicant as required by FEMA. If the LOMR or LOMA application is based on a channel improvement or other

physical change to the floodplain which requires continual operation and maintenance as a condition of the issuance of the LOMR or LOMA by FEMA, DPW may require the applicant to enter into an agreement with DPW to provide such operation and maintenance.

DPW shall be responsible for maintaining up to date floodplain maps including any amending LOMRs and LOMAs and shall coordinate efforts with INRC, FEMA and applicants to solve mapping conflicts using the best available hydrologic, hydraulic and topographic data.

By reference the Metropolitan Development Commission and the City-County Council must acknowledge all Floodway (FW) and Floodway Fringe (FF) District boundary relocations and base flood elevation revisions approved by FEMA through the issuance of LOMRs and LOMAs as changes to the Flood Control District Zoning Maps.

SECTION 2.00 GENERAL REGULATIONS APPLICABLE TO ALL DISTRICTS

The following regulations shall apply to all land within any FLOOD CONTROL DISTRICT.

A. From and after October 4, 1971:

1. No land, watercourse, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this Ordinance.
2. No land, watercourse, building, structure, premises, use or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed, relocated, altered, improved, or repaired except in conformity with these regulations and for uses permitted by this Ordinance.

B. No Land Alteration, Watercourse Alteration, Open Land Use, Legally Established Nonconforming Use, or Structure as defined in this Ordinance shall be constructed, erected, placed, converted, enlarged, extended, reconstructed, improved, repaired, restored, or relocated until a Floodplain Development Permit is issued for the proposed activity as required by this Ordinance.

C. Application for a Floodplain Development Permit shall be made on a form provided by DPW. The application shall be accompanied by drawings of the site drawn to scale which depict the proposed activity in a manner adequate for DPW to determine compliance with this Ordinance. At a minimum the site plan shall show: all existing and proposed structures; existing and proposed contours (if the proposed activity includes Land Alteration or Watercourse Alteration); the governing base flood elevation for the site (including the source of the base flood elevation value); and the proposed

flood protection grade elevation (if the proposed activity requires a specified flood protection grade under this Ordinance).

Site plans for all platted subdivisions shall also include a delineation of the existing and proposed Floodway and Floodway Fringe boundaries; a flood protection grade denoted for each building pad; and, for each lot located in a Flood Control District, a plan note identifying the Flood Control District in which it is located and the requirements and limitations imposed under this Ordinance for construction on a floodplain lot.

Plans for proposed activities requiring a specified flood protection grade under this Ordinance, which involve Land or Watercourse Alterations, or involve floodproofing of a structure shall be certified by a Professional Engineer, Professional Surveyor, or Professional Architect as defined by this Ordinance.

- D. An application fee shall be charged for the processing of a Floodplain Development Permit application. A fee schedule shall be developed by DMD for categories of proposed activities sufficient to recover the cost of processing applications.
- E. A Floodplain Development Permit shall not be issued for any proposed activity until all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- F. DPW shall require that an NFIP Elevation Certificate be completed by a Professional Engineer, Professional Architect or Professional Surveyor for each new structure, Substantial Addition, Substantial Improvement, or restoration of Substantial Damage located in a Flood Control District, as required by FEMA. DPW shall supply each applicant for a Floodplain Development Permit with a blank NFIP Elevation Certificate during the DPW's Floodplain Development Permit review process. The applicant shall have a Professional Engineer, Professional Architect or Professional Surveyor complete the NFIP Elevation Certificate, showing the as built flood protection grade and lowest adjacent grade to the structure. The applicant shall deliver a signed and completed NFIP Elevation Certificate to DPW within 10 calendar days after completion of construction of the lowest floor grade, and before DMD completes the final site inspection.

DPW shall require that a floodproofing certificate if required by Section 2.02(B)(1), be completed by a professional engineer

or professional architect for each new structure, substantial addition, substantial improvement or restoration of substantial damage located in a flood control district, as required by FEMA. DPW shall supply each applicant for a floodplain development permit with a blank floodproofing certificate during the DPW's floodplain development permit review process. The applicant shall have a professional engineer or architect complete the floodproofing certificate, showing the as built flood protection grade as provided by the floodproofing measures constructed. The applicant shall deliver a signed and completed floodproofing certificate to DPW within ten (10) calendar days after completion of construction of the structural floodproofing and before DMD completes the final site inspection.

DMD shall not perform the final inspection of construction involving a new building or addition to a building requiring an Elevation Certificate or Floodproofing Certificate until it has received notification that a properly completed Elevation Certificate or Floodproofing Certificate has been submitted to DPW. Failure to submit a properly completed Elevation Certificate, or Floodproofing Certificate if applicable, shall result in the issuance of a stop work order on the project by DMD, revocation of the Floodplain Development Permit by DMD, or both.

- G. DPW shall make all determinations and obtain all data in accordance with FEMA standards at 44 C.F.R. § 60.3. The permit applicant is responsible for supplying data to DPW that is required by FEMA.
- H. The Metropolitan Development Commission hereby delegates authority to DPW to perform all functions relating to the review of applications for and issuance of Floodplain Development Permits, in accordance with this Ordinance.
- I. All new construction and substantial improvements shall
 1. be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
 2. be constructed with materials resistant to flood damage,
 3. be constructed by methods and practices that minimize flood damages, and
 4. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so

as to prevent water from entering or accumulating within the components during conditions of flooding.

- J. A Floodplain Development Permit shall not be issued for proposed activity in an Unnumbered Zone A or Zone AH or Zone AO until the Flood Control District boundaries and base flood elevation are established in accordance with Section 1.00(B).

SECTION 2.01 FW FLOODWAY DISTRICT REGULATIONS (SECONDARY)

The following regulations, in addition to those in section 2.00, shall apply to all land within the FLOODWAY DISTRICT. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to said land, and in case of conflict, the more restrictive regulations shall apply.

The purpose of the Floodway District is to guide development in areas identified as a Floodway. INRC exercises primary jurisdiction in the Floodway District under the authority of IC 13-2-22; however, the City may impose terms and conditions on any Floodplain Development Permit it issues in a Floodway District which are more restrictive than those imposed by INRC regulations.

- A. PERMITTED USES. The following uses shall be permitted in the FLOODWAY DISTRICT subject to the development standards of Section 2.01-B.

1. Open Land Uses.
2. Land Alterations and Watercourse Alterations.
3. Non-Building Structures.
4. Detached Residential Accessory Structures.
5. Improvements, additions, and restoration of damage to legally established nonconforming uses.

B. DEVELOPMENT STANDARDS

1. OPEN LAND USE

An OPEN LAND USE as defined in this Ordinance shall be allowed without a Floodplain Development Permit provided that the OPEN LAND USE does not constitute or involve any structure, obstruction, deposit, construction, excavation, or filling in a Floodway in accordance with INRC regulations. Otherwise, proposed OPEN LAND USES shall require a Floodplain Development Permit in accordance with this subsection.

2. LAND AND WATERCOURSE ALTERATIONS

Land Alterations and Watercourse Alterations as defined in this Ordinance, shall not result in any new or additional public or private expense for flood protection; shall assure that the flood carrying capacity is maintained and shall not increase flood elevations, velocities, or erosion upstream, downstream or across the stream from the proposed site; and shall not result in unreasonable degradation of water quality or the floodplain environment.

In addition, no Floodplain Development Permit shall be issued for Land Alterations or Watercourse Alterations in a Floodway unless a Certificate of Approval for Construction in a Floodway is first issued by INRC for the proposed activity, if required pursuant to IND. CODE 13-2-22-13.

3. NON-BUILDING STRUCTURES

NON-BUILDING STRUCTURES as defined in this Ordinance shall be permitted in a Floodway only under the following conditions:

- a. The Non-Building Structure is designed, located, and constructed such that it is protected from potential damage resulting from flooding up to and including the base flood;
- b. The Non-Building Structure is designed to resist displacement resulting from hydrostatic, hydrodynamic, buoyant, or debris loading forces associated with flooding up to and including the base flood;
- c. The Non-Building Structure is designed to minimize potential contamination or infiltration of flood waters or other potential environmental health or safety hazards associated with flooding up to and including the base flood;
- d. The Non-Building Structure is designed to minimize the obstruction of floodwaters by such measures as providing flow-through rather than solid fencing, reduction of structure cross section area perpendicular to the flow path, and placement of the Non-Building Structure away from areas of greater depth or velocities;

- e. The INRC has first issued a Certificate of Approval of Construction in a Floodway, if applicable pursuant to IND. CODE 13-2-22-13; and
 - f. The Non-Building Structure must meet the applicable flood protection grade required by INRC and FEMA rules.
4. DETACHED RESIDENTIAL ACCESSORY STRUCTURES may be erected in a floodway with or without a flood protection grade two feet above the base flood elevation only if the following conditions are met. A flood protection grade two feet above the base flood elevation is not a condition for the erection of a detached residential accessory structure in a floodway. However, the following conditions must be met irrespective of whether a flood protection grade is provided.
- a. The detached structure is constructed or placed on the same lot as an existing primary residential structure and is operated and maintained under the same ownership;
 - b. The detached structure is customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot;
 - c. The detached structure is no larger than seventy five percent of the size of the existing primary residential structure or four hundred square feet, whichever is smaller;
 - d. The detached structure shall never be used in total, or in part, for habitable space ;
 - e. Any electrical wiring and any heating, cooling or other major appliance in the detached structure is located above the base flood elevation and the detached structure is not used for the storage of any substance or chemical which is dangerous or would become dangerous if mixed with water;
 - f. The INRC has first issued a Certificate of Approval of Construction in a Floodway; and
 - g. As a condition to allowing construction of a Detached Residential Accessory Structure, DPW may first require the owner to record a statement, in a form approved by DPW, indicating that the detached residential accessory structure shall not, in the future, be used in total, or in part, as habitable

space. This shall be a covenant that shall be recorded in the Office of the Recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.

5. LEGALLY-ESTABLISHED NONCONFORMING USES IN A FLOODWAY (FW) DISTRICT

Nothing stated in this subsection shall prevent Ordinary Maintenance or Repair of Legally-Established Nonconforming Uses as defined in this Ordinance. The cost of ordinary maintenance and repair of buildings or structures is not counted toward the fifty percent limit for determining substantial improvement, restoration of substantial damage or substantial addition as defined herein.

a. RESTORATION OF DAMAGE

- (1) Non-Substantial Damage: A Legally-Established Nonconforming Use which has been damaged by flood, fire, explosion, act of God, or the public enemy, may be restored to its original dimensions and condition provided that the damage is Non-Substantial Damage as defined in this Ordinance and a Certificate of Approval of Construction in a Floodway, if required in accordance with INRC rules, is first obtained from INRC.
- (2) Substantial Damage: A Legally-Established Nonconforming Use which is Substantially Damaged as defined in this Ordinance may only be restored if the following conditions are satisfied:
 - (i) the Legally-Established Nonconforming Use is not a Primary Residential Structure;
 - (ii) the applicant for the proposed restored use must first obtain a Certificate of Approval for Construction in a Floodway from INRC;
 - (iii) a restored structure must be provided with a flood protection grade at or above the base flood elevation;
 - (iv) the design of the foundation of a restored structure must be certified by a Professional Engineer or

Professional Architect as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood, and constructed with a material that will maintain its structural integrity during and after exposure to floodwaters;

- (v) if the damage to a structure is such that the structure including the foundation is destroyed the structure must be rebuilt upon the same area of the original foundation and have substantially the same configuration as the destroyed structure, unless the rebuilt structure is proposed to be placed on a site less vulnerable to flood hazards as determined by DPW;
- (vi) the restored or rebuilt structure does not restrict or obstruct the Floodway more than the damaged structure;
- (vii) the damage was not intentionally caused by the owner or occupant;
- (viii) the restoration of the structure is begun within one year and completed within two years following the date that the damage occurred.

b. IMPROVEMENTS

- (1) Non-Substantial Improvements: A Legally-Established Nonconforming Use in a Floodway (FW) District may undergo a one-time only Non-Substantial Improvement. Subsequent Improvements shall be subject to the requirements and limitations of this Ordinance applicable to Substantial Improvements.
- (2) Substantial Improvements: A Substantial Improvement to a Legally-Established Nonconforming Use in a Floodway (FW) District is prohibited.

c. ADDITIONS

- (1) Non-Substantial Additions: A Legally-Established Nonconforming Use in a Floodway (FW) District may undergo a one-time only Non-Substantial Addition. Subsequent additions shall be subject to the requirements and limitations of this Ordinance applicable to Substantial Additions.

A Certificate of Approval for Construction in a Floodway must be obtained from INRC for any Addition prior to the issuance of a Floodplain Development Permit.

- (2) Substantial Addition: A Substantial Addition to a Legally-Established Nonconforming Use in a Floodway (FW) District is prohibited.

6. PROHIBITION OF GARBAGE, TRASH, JUNK IN FLOODWAY (FW) DISTRICT

No use shall involve the storage, accumulation, spreading, dismantling or processing of garbage, trash, junk, or any other similar discarded or waste material.

SECTION 2.02 FLOODWAY FRINGE (FF) DISTRICT REGULATIONS (SECONDARY)

The following regulations, in addition to those in section 2.00 shall apply to all land within the FLOODWAY FRINGE DISTRICT. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to said land, and in case of conflict, the more restrictive regulations shall apply.

The purpose of the Floodway Fringe District is to guide development in areas subject to potential flood damage, but outside a Floodway District.

A. PERMITTED USES

All uses permitted in the applicable primary zoning district shall be permitted in the FLOODWAY FRINGE DISTRICT, subject to the requirements of this Section.

B. DEVELOPMENT STANDARDS

1. GENERAL

Except as provided in subsections 2, 3 and 5 below, no building shall be erected, reconstructed, expanded,

structurally altered, converted, used, relocated, restored, or improved unless it is provided with a Flood Protection Grade of at least two (2) feet above the base flood elevation. This Flood Protection Grade may be achieved for non-residential structures by structural floodproofing. The design and construction shall be certified on a Floodproofing Certificate by a Professional Engineer or Professional Architect as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

For Floodplain development at sites which are elevated with fill, lowest floor levels, including basement floors, shall be provided with a flood protection grade of at least two (2) feet above the base flood elevation. The flood protection grade as well as all other requirements of this Ordinance shall not be applicable to property which has been removed from a Flood Control District through the issuance of a final LOMR or LOMA by FEMA.

Floodway Fringe Fill on which a building is to be placed shall be compacted to 95% of maximum density using the Standard Proctor Test method. The surface of the fill shall extend at least ten feet horizontally from the perimeter of the building before sloping below the base flood elevation. This is a minimum distance which may need to be increased by the designer based on site conditions. Fill slopes shall be adequately protected from erosion using a method approved by DPW.

2. OPEN LAND USE

Any OPEN LAND USE as defined in this Ordinance shall be allowed in a Floodway Fringe District without a Floodplain Development Permit.

3. LAND AND WATERCOURSE ALTERATIONS

Land Alterations and Watercourse Alterations in a Floodway Fringe District shall not result in any new or additional public or private expense for flood protection; shall not increase flood elevations or reduce flood carrying capacity; shall not increase velocities or erosion upstream, downstream, or across the stream from the proposed site; and shall not result in unreasonable degradation of water quality or the floodplain environment.

4. NON-BUILDING STRUCTURES

NON-BUILDING STRUCTURES as defined in this Ordinance shall be allowed in a Floodway Fringe District only if constructed in a manner that will not impede the flow of floodwater and debris carried by floodwater, and the following conditions are met:

- a. The Non-Building Structure is designed, located and constructed such that it is protected from potential damage resulting from flooding up to and including the base flood;
- b. The Non-Building Structure is designed to resist displacement resulting from hydrostatic, hydrodynamic, buoyant, or debris loading forces associated with flooding up to and including the base flood;
- c. The Non-Building Structure is designed to minimize potential contamination or infiltration of flood waters or other potential environmental or safety hazards associated with flooding up to and including the base flood;
- d. The Non-Building Structure is designed to minimize the obstruction of floodwaters by such measures as providing flow-through rather than solid fencing, reduction of structure cross section perpendicular to the flow path, and placement of the Non-Building Structure away from areas of greater depth or velocities;
- e. The Non-Building Structure must meet the applicable flood protection grade required by INRC and FEMA rules.

5. DETACHED RESIDENTIAL ACCESSORY STRUCTURES

DETACHED RESIDENTIAL ACCESSORY STRUCTURES may be erected in a Floodway Fringe District above or below the Flood Protection Grade only if the following conditions are met:

- a. The detached structure is constructed or placed on the same lot as an existing primary residential structure and is operated and maintained under the same ownership;
- b. The detached structure is customarily incidental, accessory and subordinate to, and commonly

associated with, the operation of the primary use of the lot;

- c. The detached structure is no larger than seventy five percent (75%) of the size of the existing primary residential structure or four hundred square feet, whichever is smaller;
- d. The detached structure shall never be used in total, or in part, for habitable space;
- e. Any electrical wiring and any heating, cooling or other major appliance in the detached structure is located above the base flood elevation and the detached structure is not used for the storage of any substance or chemical which is dangerous or would become dangerous if mixed with water; and
- f. As a condition to allowing a detached residential accessory structure, the DPW may require the owner to record a statement, in a form approved by DPW, indicating that the detached residential accessory structure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the Office of the Recorder, Marion County, Indiana, with the property deed and shall be binding on all subsequent owners.

6. ATTACHED NON-HABITABLE RESIDENTIAL ACCESSORY ENCLOSURES

ATTACHED NON-HABITABLE ACCESSORY ENCLOSURES may be constructed in a Floodway Fringe District as a part of one family, two family, or multi-family structures only under the following conditions:

- a. All parts of the building or structure other than the Attached Non-Habitable Accessory Enclosure shall be erected, constructed, reconstructed, expanded, structurally altered, converted, used or relocated in compliance with this Subsection 2.02 B;
- b. The Attached Non-Habitable Accessory Enclosure is attached to or part of the primary residential structure and is operated and maintained under the same ownership;
- c. The Attached Non-Habitable Accessory Enclosure is customarily incidental, accessory and subordinate to, and commonly associated with the use of the primary residential structure;

- d. The Attached Non-Habitable Accessory Enclosure is not used in total or in part, as habitable space, but is solely for parking vehicles, building access or storage of materials not covered under the Standard Flood Insurance Policy;
- e. As a condition to allowing an Attached Non-Habitable Accessory Enclosure, the DPW shall require the owner to record a statement, in a form approved by DPW, indicating that the Attached Non-Habitable Accessory Enclosure shall not, in the future, be used in total, or in part, as habitable space. This shall be a covenant that shall be recorded in the Office of the Recorder, Marion county, Indiana, with the deed and shall be binding on all subsequent owners;
- f. Any electrical wiring and any heating, cooling or other major appliance or equipment in the Attached Non-Habitable Accessory Enclosure is located above the base flood elevation and the attached non-habitable accessory enclosure is not used for the storage of any substance or chemical which is dangerous or would become dangerous if mixed with water; and
- g. The exterior walls of the Attached Non-Habitable Accessory Enclosure shall be constructed with a material which will maintain its structural integrity during and after exposure to flood waters and be designed to automatically equalize hydrostatic flood forces by allowing for the entry and exit of flood waters. Designs for meeting this requirement must meet the following minimum criteria:
 - (1) A minimum of two wall openings having a total net area of not less than one square foot for every two square feet of enclosed area subject to flooding shall be provided;
 - (2) The bottom of all openings shall be no higher than one foot above the floor level of the enclosure or no greater than one foot above grade, whichever is less; and
 - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood waters

without reliance on human or electrical activation; and

- h. Attached Non-Habitable Accessory Enclosures that are also Legally-Established Nonconforming Uses pursuant to Section 2.02 B-8 shall not be subject to the requirements of Section 2.02 B-6.

7. MANUFACTURED HOME DWELLINGS, MOBILE DWELLINGS AND RECREATIONAL VEHICLES

- a. Manufactured Home Dwellings and Mobile Dwellings that are placed or undergo Substantial Improvements or Substantial Additions on sites outside of a Mobile Dwelling Project, in a New Mobile Dwelling Project or Subdivision, in an Expansion to an Existing Mobile Dwelling Project or Subdivision, or in an Existing Mobile Dwelling Project or Subdivision on which a Manufactured Home Dwelling or Mobile Dwelling has incurred Substantial Damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the Manufactured Home Dwelling or Mobile Dwelling is elevated with a flood protection grade at least two feet above the base flood and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement.
- b. Manufactured Home Dwellings and Mobile Dwellings that are placed or undergo Substantial Improvements or Substantial Additions on sites in an Existing Mobile Dwelling Project or Subdivision on which a Manufactured Home Dwelling or Mobile Dwelling has not incurred Substantial Damage as the result of a flood, shall be elevated so that either the lowest floor of the Manufactured Home Dwelling or Mobile Dwelling is elevated with a flood protection grade at least two feet above the base flood or the Manufactured Home Dwelling or Mobile Dwelling chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty six inches in height above grade and be securely anchored foundation system to resist flotation, collapse and lateral movement.
- c. Recreational Vehicles placed on sites in the Floodway Fringe for one hundred eighty consecutive days or more shall be subject to the requirements for Manufactured Home Dwellings and Mobile Dwellings contained in this Ordinance. Recreational Vehicles placed on sites in the Floodway Fringe shall not be

subject to requirements for Manufactured Home Dwellings and Mobile Dwellings contained in this Ordinance and shall not require a Floodplain Development Permit if the Recreational Vehicle is either placed on the site for fewer than one hundred eighty consecutive days or is fully licensed and ready for highway use. A Recreational Vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has not permanently attached additions.

8. LEGALLY ESTABLISHED NONCONFORMING USES

Nothing stated in this subsection shall prevent Ordinary Maintenance or Repair of Legally-Established Nonconforming Uses as defined in this Ordinance. The cost of ordinary maintenance and repair of buildings or structures is not counted toward the fifty percent limit for determining a substantial improvement, restoration of substantial damage or substantial addition as defined herein.

Improvements, Additions and Restoration of Damage to Legally Established Non-Conforming Uses authorized under this subsection shall not be subject to Subsection 2.02 B6 of this Section.

a. RESTORATION OF DAMAGE

- (i) Non-Substantial Damage: A Legally-Established Nonconforming Use in a Floodway Fringe District damaged by flood, fire, explosion, act of God or the public enemy, may be restored to its original dimensions and condition provided that the damage is a Non-Substantial Damage as defined by this Ordinance.
- (ii) Substantial Damage: A Legally-Established Nonconforming Use that is Substantially Damaged may only be restored if the restored structure is provided with a flood protection grade of two feet above the base flood elevation.

b. IMPROVEMENTS

- (i) Non-Substantial Improvements: A Legally-Established Nonconforming Use in a Floodway Fringe District may undergo a one-time only Non-Substantial Improvement. Subsequent improvements shall be subject to the

requirements and limitations of this Ordinance applicable to Substantial Improvements.

- (ii) Substantial Improvement: A Legally-Established Nonconforming Use may only undergo a Substantial Improvement if the structure is provided with a flood protection grade of at least two feet above the base flood.

c. ADDITIONS

- (i) Non-Substantial Addition: A Legally-Established Nonconforming Use in a Floodway Fringe District may undergo a one-time only Non-Substantial Addition. Subsequent improvements or additions shall be subject to the requirements and limitations of this Ordinance applicable to Substantial Additions.
- (ii) Substantial Addition: A Legally-Established Nonconforming Use may only undergo a Substantial Addition if the addition is provided with a flood protection grade of at least two feet above the base flood.

9. DRAINING OF LAND; ALTERING OF WATERCOURSES; CONSTRUCTION OF PONDS, LAKES, LEVEES, DAMS

No draining or reclamation of land; altering, widening, deepening or filling of watercourses or drainage channels or ways; construction of ponds, lakes, levees, or dams; or any other changes or improvements of watercourses or drainage channels or ways shall be undertaken in the Floodway Fringe District unless first approved by the INRC, if applicable, and any other local, state or federal agencies having jurisdiction over such activity.

10. CONSTRUCTION OF NEW ACCESS ROADS

If the proposed activity includes the construction of a new access road between proposed buildings to be located in the Floodway Fringe District and a public road, and the public road at the intersection with the proposed access road is at or above the base flood elevation, then the proposed access road must also be at or above the base flood elevation along the entire length between any proposed building and the public road. If there is more than one access road between the public road and any proposed building, only one must provide access at or above the base flood elevation.

SECTION 2.03 VARIANCES

- A. The Board of Zoning Appeals may only issue a variance to the permitted uses or development standards of the Floodway (FW) or Floodway Fringe (FF) Districts if the applicant submits evidence that:
1. There exists a good and sufficient cause for the requested variance;
 2. The strict application of the terms of this Ordinance will constitute an exceptional hardship to the applicant;
 3. The grant of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with other applicable laws or Ordinances.
- B. The Board of Zoning Appeals may only issue a variance to the permitted uses or development standards of the Floodway (FW) or Floodway Fringe (FF) Districts subject to the following conditions:
1. No variance for the construction of a new residential structure in a Floodway (FW) District may be granted;
 2. Any variance granted for a use in a Floodway (FW) District shall first require a permit from INRC, if such permit is required by INRC rules and procedures;
 3. Variances to the flood protection grade requirements may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation;
 4. Variances may be granted for the reconstruction or restoration of any structure listed on the National Register of Historic Places or the Indiana State Survey of Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects, subject to the condition that such variance will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character;
 5. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and

6. DPW shall issue a written notice to the recipient of a variance that the proposed construction will be subject to increased risks of life and property and could require payment of increased flood insurance premiums.

SECTION 2.04 PERMIT APPLICATION AND REVIEW PROCEDURES;
RECORDKEEPING

- A. DPW shall review all applications for a Floodplain Development Permit for all sites which have been identified by DMD or DPW as lying in a Flood Control District. DPW shall verify that the site is in a Flood Control District by referring to the Flood Boundary and Floodway Map or Flood Insurance Rate Map. In cases where the floodplain status of the site cannot be fully determined through the use of these maps, DPW shall use the best available data to determine the floodplain status of the site, in accordance with Section 1.00 of this Ordinance.
- B. If the permit application is for a site located in an identified Floodway (FW) District, then DPW shall direct the applicant to apply to INRC for a state permit for construction in floodway. A Floodplain Development Permit shall not be issued for the proposed activity until the INRC has issued a Certificate of Approval of Construction in a Floodway or a letter stating that INRC approval is not required, and DPW determines that the application complies with all other applicable requirements of this Ordinance.
- C. If the permit application is for a site located in a Floodway Fringe (FF) District, then DPW may approve the application upon compliance with the applicable requirements of this Ordinance.
- D. In both Floodway (FW) and Floodway Fringe (FF) Districts, DPW will require such modifications to the design and materials of the proposed activity as DPW may deem appropriate under this Ordinance.
- E. In reviewing applications for Floodplain Development Permits for compliance with the requirements of this Ordinance, DPW, in conjunction with DMD, shall assure that all necessary permits related to floodplain management objectives from state, federal, and local agencies have been obtained.
- F. RECORDS OF FLOODPLAIN DEVELOPMENT PERMITS
 1. DPW will maintain a file of all Floodplain Development Permits issued in a Flood Control District.
 2. DPW will make these Floodplain Development Permits available to representatives of FEMA, INRC and other interested parties.

G. NFIP Elevation Certificates

1. DPW will file the NFIP Elevation Certificate, and the Floodproofing Certificate if applicable, for each building and structure in a Flood Control District with the Floodplain Development Permit.
2. DPW will make available to insurance agents and lenders, upon request, copies of the NFIP Elevation Certificate and the Floodproofing Certificate to assist in the actuarial rating of the structure for flood insurance purposes.

- H. DPW shall notify an adjacent community and INRC prior to any alteration or relocation of a watercourse in a riverine situation and submit copies of such notifications to FEMA.

SECTION 3.00 NATIONAL FLOOD INSURANCE PROGRAM REGULATION

DPW, during the review of Floodplain Development Permit applications located in identified Flood Control Districts, shall ensure that all National Flood Insurance Program regulations (codified at 44 CFR, Part 60.3) pertaining to state and federal permits, subdivision review, building permit review, flood proofing nonresidential structures, mobile home tie-down standards, utility construction, record keeping (including lowest floor elevations), and watercourse alteration and maintenance have been met.

SECTION 4.00 SEVERABILITY

If any section, subsection, paragraph, subparagraph, clause, phrase, word, provision or portion of this Ordinance shall be held to be unconstitutional or invalid by any court of competent jurisdiction, such holding or decision shall not affect or impair the validity of this Ordinance as a whole or any part thereof, other than the section, subsection, paragraph, subparagraph, clause, phrase, word, provision or portion so held to be unconstitutional or invalid.

SECTION 5.00 VIOLATIONS

A violation of this Ordinance shall be enforceable under the Enforcement Remedies Zoning Ordinance of Marion County, Code of Indianapolis and Marion County, Appendix D, Part 26.

A violation may lead to the cancellation of a Standard Flood Insurance Policy. DPW shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by the Standard Flood Insurance Policy to be suspended.

SECTION 6.00 DEFINITIONS

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the plain, ordinary meaning they have in common usage and to give the Ordinance its most reasonable application.

AS-BUILT CONDITION

The state of being of a structure or building immediately following its construction or placement.

ATTACHED NON-HABITABLE ACCESSORY ENCLOSURE

An enclosed area of structure below the elevated first floor used solely for parking vehicles, building access or storage which satisfies all requirements for such a structure as set forth in this Ordinance.

BASE FLOOD

That flood having a peak discharge which can be expected to be equalled or exceeded on the average of once in a hundred year period, as calculated by a method and procedure which is acceptable to and approved by the INRC. This flood is equivalent to a flood having a probability of occurrence of one percent in any given year.

BASE FLOOD ELEVATION

The site-specific elevation of the water surface of the base flood measured in feet above mean sea level (1929 NGVD or NAVD 1988). In either case a conversion number shall be included.

BEST AVAILABLE DATA

Information including but not limited to available topographic mapping, survey data, historic flood records, engineering studies, channel ratings, and engineering judgment, used by DPW to make Flood Control District determinations pursuant to Section 1.00 of this Ordinance, when detailed floodplain data are not available for a particular site.

BUILDING

Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, or property of any kind, having an enclosed space and a permanent roof supported by columns or walls.

COST

The actual value of the work to be performed based on a method approved by FEMA.

DETACHED RESIDENTIAL ACCESSORY STRUCTURE

A detached non-habitable structure which is subordinate to and located no less than six feet from the primary residential structure and which satisfies all local regulations regarding this classification.

DEVELOPMENT

Any man-made change to improved or unimproved real estate including, but not limited to, buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DMD

The Department of Metropolitan Development of the City of Indianapolis.

DPW

The Department of Public Works of the City of Indianapolis.

ELEVATION CERTIFICATE

The most recently published official Elevation Certificate document issued by FEMA.

EXISTING MOBILE DWELLING PROJECT OR SUBDIVISION

A Mobile Dwelling Project or Subdivision for which the construction of facilities for servicing the lots on which the Mobile Dwellings are to be affixed (including, at a minimum, the installation of

utilities, construction of streets and either final site grading or pouring of concrete pads) is completed before the effective date of this Ordinance.

EXPANSION TO AN EXISTING MOBILE DWELLING PROJECT OR SUBDIVISION

The preparation of additional sites for an Existing Mobile Dwelling Project or Subdivision by the construction of facilities for servicing the lots on which the Mobile Dwellings are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FDP

Floodplain Development Permit

FEMA

Federal Emergency Management Agency

FIFTY PERCENT LIMIT

The maximum amount of work allowed in or on a Legally-Established Non-Conforming Use before the work is not eligible for the special allowances provided for Restoration of Non-Substantial Damage, Non-Substantial Improvements and Non-Substantial Additions as provided herein. The proposed work shown on an application for a Floodplain Development Permit in or on a Legally-Established Nonconforming Use shall be evaluated to determine whether the fifty percent limit has been exceeded by taking the ratio of the projected cost of the work divided by the market value before the start of construction of the Legally-Established Nonconforming Use (excluding the value of the land or detached structures) as a percentage.

FILL

Soil material placed upon the ground, compacted and graded for the purpose of elevating the surface of the ground.

FLOOD OR FLOODING

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of rivers, streams, ditches or enclosed drainage systems;
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source;
 - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

FLOOD INSURANCE STUDY BASE FLOOD PROFILE

The base flood elevation profile included in the June 3, 1988 Flood Insurance Study published by FEMA.

FLOODPLAIN

The area adjoining the river or stream which has been or may hereafter be covered by floodwaters.

FLOODPROOFED BUILDING

A nonresidential building designed to exclude floodwaters from the interior of that building. All such floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

FLOODPROOFING CERTIFICATE

The most recently published official document for Floodproofing Certificate for Non-Residential Structures issued by FEMA.

FLOOD PROTECTION GRADE

The elevation of the lowest point in a building at which flood waters may enter the interior of the building. Such lowest point is defined by the following:

- 1) The lowest floor of the building (if a basement is included, the basement floor is the lowest floor);
- 2) The garage floor, if the garage is the lowest level of the building (except garages which qualify as an allowed non-habitable attached accessory enclosure);
- 3) The first floor of buildings elevated on pilings or constructed on a crawl space;
- 4) The floor level of any enclosure below the elevated first floor unless the enclosure satisfies the requirements for a non-habitable attached accessory enclosure;
- 5) The level of protection provided to a nonresidential building below which the building is designed to be water tight. The design and construction shall be certified on a Floodproofing Certificate by a professional engineer or a professional architect as being adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

FLOODWATER

The water of any lake or watercourse which is above the banks and/or outside the channel and banks of such watercourse.

FLOODWAY

The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the base flood of any river or stream.

FLOODWAY FRINGE

The portion of the regulatory floodplain which is not required to convey the 100 year frequency flood peak discharge and therefore lies outside of the floodway.

HABITABLE SPACE

The enclosed area of any building used for living area including but not limited to bedrooms, bathrooms, kitchens, living rooms, family rooms, dining rooms, recreation rooms, utility rooms and workshops.

HISTORIC STRUCTURE

Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in accordance with a state historic preservation programs which have been approved by the Secretary of Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior.

INRC

The Indiana Natural Resources Commission.

LAND ALTERATION

Any change in the topography of land caused by activities including but not limited to excavation, filling, deposit or stockpiling of materials and construction of ponds, dams, or levees outside of a watercourse.

For purposes of this Ordinance, Land Alterations do not include the construction, placement of, or other activities involving

buildings or non-building structures, or those activities which are defined as Open Land Use in this Ordinance, or ordinary maintenance and repair of an INRC approved Land Alteration.

LEGALLY ESTABLISHED NONCONFORMING USE

Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment of this Ordinance, but which fails, by reason of such adoption, revision, amendment or variance to conform to the present requirements of the Flood Control Zoning District.

LOMA

Letter of Map Amendment issued by FEMA.

LOMR

Letter of Map Revision issued by FEMA.

MANUFACTURED HOME DWELLING

A unit which is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process. Every module shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. The unit must have been built after January 1, 1981, have at least 950 square feet of main floor area (exclusive of garages, carports, and open porches), and exceed twenty-three (23) feet in width.

MARKET VALUE OF STRUCTURE

The market value of the structure itself not including the associated land, landscaping or detached accessory structures. The market value must be determined by a method approved by FEMA and DPW. If an appraisal is used the appraiser must have at least one of the following designations:

- 1) member of the American Institute of Real Estate Appraisers (MAI);
- 2) residential member of the American Institute of Real Estate Appraisers (RM);

- 3) senior real estate analyst of the Society of Real Estate Appraisers (SREA);
- 4) senior residential appraiser of the Society of Real Estate Appraisers (SREA);
- 5) senior real property appraiser of the Society of Real Estate Appraisers (SRPA);
- 6) senior member of the American Society of Appraisers (ASA);
- 7) accredited rural appraiser of the American Society of Farm Managers and Rural Appraisers (ARA); or
- 8) accredited appraiser of the Manufactured Housing Appraiser Society.

MOBILE DWELLING

A movable or portable unit fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process. The unit is designed for occupancy by one family, and erected or located as specified by Chapter 8, Article III, Division IV of the Code of Indianapolis and Marion county, and which was either:

- a) constructed prior to June 15, 1976 and bears a seal attached under Indiana Public Law 135, 1971, certifying that it was built in compliance with the standards established by the Indiana Administrative Building Council; or
- b) constructed subsequent to or on June 15, 1976 and bears a seal certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards law.

MOBILE DWELLING PROJECT OR SUBDIVISION

An area of contiguous land separated only by a street(s) upon which three (3) or more mobile dwellings are designated spaces or lots for the purpose of being occupied as primary residences and includes all real and personal property used in the operation of said mobile dwelling project or, an area of contiguous land separated only by a street that is subdivided and contains individual lots which are or intended to be sold, leased or similarly contracted for the purpose of being occupied as a primary residence, is a mobile dwelling project if three (3) or more lots or sites are designated specifically to accommodate mobile dwellings.

NEW MOBILE DWELLING PROJECT OR SUBDIVISION

A Mobile Dwelling Project or Subdivision for which the construction of facilities for servicing the lots on which the Mobile Dwellings are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Ordinance.

NFIP

National Flood Insurance Program.

NON-BUILDING STRUCTURE

Structures other than buildings including but not limited to public utilities, on-site waste disposal systems, water supply systems, sanitary sewers, on-site wastewater treatment systems, lift stations, transmission towers, well pumps, electrical units, bridges, culverts, and any other structures determined by DPW to constitute a potential hazard to life, health, safety or property caused by exposure to floodwaters during the base flood.

NON-SUBSTANTIAL ADDITION

A structural enlargement of a structure the cost of which is less than fifty percent of the market value of the structure before the start of construction.

NON-SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure and not intentionally caused or inflicted by the Owner or Occupant whereby the cost of restoring the structure to its pre-damaged condition would be less than fifty percent of the market value of the structure before the damage occurred.

NON-SUBSTANTIAL IMPROVEMENT

Any structural improvement of a structure which does not consist of a structural enlargement or repair of damage, the cost of which is less than fifty percent of the market value of the structure before the start of construction of the improvement. This term does not include either:

- 1) Any project for improvement of a structure to correct existing violation of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
- 2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure"; or
- 3) Ordinary maintenance and repair as defined herein.

OPEN LAND USE

The production of crops, pasture, forests, parks, and recreational uses which do not involve any structure, obstruction, construction, excavation or deposit in a Floodway as defined by INRC, or any Land Alteration or Watercourse Alteration as otherwise defined in this Ordinance.

The following specific activities are classified as Open Land Use:

- 1) Excavation of cemetery graves;
- 2) Exploratory excavations or soil testing under the direction and control of professional engineers, soil engineers, geologists, civil engineers, architects or land surveyors, which are backfilled;
- 3) Ordinary cultivation of agricultural land including tilling, construction of minor open ditches, and crop irrigation; and
- 4) The planting and tilling of gardens, flower beds, shrubs, trees and other common uses and minor landscaping of land appurtenant to residences.

ORDINARY MAINTENANCE AND REPAIR

Construction activity commonly accomplished in or on an existing structure or existing building equipment for the purposes of preventing deterioration or performance deficiencies, maintaining appearance, or securing the original level of performance. Preventing deterioration or deficient performance shall include such activities as caulking windows, painting, pointing bricks, oiling machinery and a replacing filters. Maintaining appearance shall include such activities as sandblasting masonry and cleaning equipment. Securing the original level of performance shall include such activities as replacing broken glass, patching a roof, disassembling and reassembling a piece of building equipment, welding a broken part and replacing a component of a heating system

(but not a furnace) with an identical component. Ordinary maintenance and repair shall not include any construction activity which alters the prior or initial capacity, performance, specifications, type of required energy or functional features of an existing structure or building equipment.

PRIMARY RESIDENTIAL STRUCTURE

The residential building in which the permitted primary use of the lot is conducted.

PROFESSIONAL ARCHITECT

An architect registered under IC 25-4-1.

PROFESSIONAL ENGINEER

An engineer registered under IC 25-31-1.

PROFESSIONAL SURVEYOR

A surveyor registered under IC 31-1-1.

RECREATIONAL VEHICLE

A self-propelled or towed vehicle designed and intended specifically for temporary living, travel, and leisure activities, including but not limited to boats, motor homes, travel trailers, and camping trailers.

REGULATORY FLOOD PROFILE

A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the base flood.

RESIDENTIAL BUILDING

Any building which possesses the architectural features, traits and qualities indicating or constituting those distinguishing attributes of a residence, such as height, bulk, materials, detailing and similar features.

STANDARD FLOOD INSURANCE POLICY

The Flood Insurance Policy issued by the Federal Insurance Administrator, or an insurer pursuant to an arrangement with the Administrator pursuant to federal statutes and regulations.

STANDARD PROCTOR

The maximum dry density of a backfill material as determined by the methods set forth within ASTM D 698. The percent standard proctor density is a ratio of the in-place dry density of a backfill material, determined by those methods set forth within ASTM D 1556, to the maximum dry density (determined by Test Method 698). The resulting quotient must be multiplied by 100, and the value obtained must meet or exceed the minimum values specified herein.

START OF CONSTRUCTION

The date that a Floodplain Development Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, substantial addition or restoration of substantial damage, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE

Anything that can be constructed, altered, repaired or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, gas or liquid storage tanks, cabins, manufactured homes, travel trailers to be placed on a site for more than one hundred and eighty consecutive days, and other similar items.

SUBSTANTIAL ADDITION

A structural enlargement of the enclosed space of a structure the cost of which equals or exceeds fifty percent of the market value of the structure before the start of construction.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure and not intentionally caused or inflicted by the owner or occupant, whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any structural improvement of a structure which does not consist of a structural enlargement or repair of damage, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. The term does not include either:

- 1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
- 2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure"; or
- 3) Ordinary maintenance and repair as defined herein.

VARIANCE

A grant of relief from the terms of this Ordinance.

VIOLATION

The failure of a structure or development or use to be fully compliant with this Ordinance. A structure or use or development without the Elevation Certificate, other certifications, or other evidence of compliance required.

WATERCOURSE

Natural streams, man-made ditches, lakes, reservoirs, ponds, retention or detention basins, and drainage swales. A watercourse is distinguished from overland flow, sheet flow, shallow swale flow, and storm sewer flow by the following characteristics which must be present to constitute a watercourse;

1. Defined and distinguishable stream banks under natural conditions; and
2. Regularity of flow in the channel evidenced by a distinguishable waterline vegetation limit or hydrologic characteristics.

WATERCOURSE ALTERATION

Any encroachment, diversion, relocation, impoundment, draining, damming, repair, construction, reconstruction, dredging, enclosing, widening, deepening, filling or other modification of a watercourse. Watercourse Alteration does not include the clearing of dead or dying vegetation, debris or trash from the channel nor does it include ordinary maintenance or repair of an INRC approved Watercourse Alteration.

ZONE A

Areas within the floodplain established by the Flood Boundary and Floodway Maps and Flood Insurance Rate Maps which include Zone A, AO, AH, A1-A30, and A99. Those areas on the maps labeled Zone A with no base flood elevation depicted have not been studied in detail.

ZONE B

Areas between limits of the 100 year flood and 500 year flood; certain areas subject to 100 year flooding with average depths less than one square mile; and areas protected by levees from the base flood.

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect from and after this date.

CITY-COUNTY COUNCIL OF INDIANAPOLIS
AND OF MARION COUNTY, INDIANA

/s/ Beurt SerVaas
President (or Presiding Officer)

Date: _____

Attest: /s/ Beverly S. Rippy